defendant's promise, built a house. The defendant being about to sell the land in front of the plaintiff's house, free of restrictions, the plaintiff sought an injunction. *Held*, injunction granted. *Phillips* v. *West Rockaway Land Co.*, 124 N. E. 87 (N. Y. Ct. of App.).

It has been held that, because an equitable servitude is a property right, the servient land cannot be condemned without compensation to the dominant tenant. *Flynn* v. *N. Y. W. & B. Ry. Co.*, 218 N. Y. 140, 112 N. E. 913. By the same reasoning, the better view is that equitable servitudes are within the Statute of Frauds. *Wolfe* v. *Frost*, 4 Sandf. Ch. (N. Y.) 72; *Pitkin* v. *Long Island Ry. Co.*, 2 Barb. Ch. (N. Y.) 221; *Rice* v. *Roberts*, 24 Wis. 461. *Contra*, *Hall* v. *Solomon*, 61 Conn. 476, 23 Atl. 876. The court does not consider this question, apparently confusing the creation of equitable servitudes with the creation of quasi-easements, which do not come within the purpose of the Statute. For estoppel, upon which doctrine the court rests its decision, the representation must be as to an existing fact, not merely as to future action. *Maddison* v. *Alderson*, L. R. 8 A. C. 467; *White* v. *Ashton*, 51 N. Y. 280. The case seems erroneous in principle and inconsistent with two lines of decisions of the same court.

EVIDENCE — ADMISSIONS — CONDUCTOR'S REPORT OF ACCIDENTS. — To prove defendant's negligence, the plaintiff introduced in evidence, over defendant's objection, the report of the accident, submitted to the defendant by its conductor. *Held*, error, but not prejudicial. *Bell* v. *Milwaukee Electric Ry. & Light Co.*, 172 N. W. 791 (Wis.).

When the reports can be regarded as being obtained with a view to the particular litigation, they are held to be privileged. *Cossey & Wife* v. *London, Brighton & South Coast Railway Company*, L. R. 5 C. P. 146. But this requisite, precedent to such privilege, is not present in the facts of the principal case. *Mahoney* v. *National Widows Life Assurance Fund, Ltd.*, L. R. 6 C. P. 252; *Woolley* v. *North London Railway Company*, L. R. 4 C. P. 602; *In re Bradley*, 71 N. H. 54, 51 Atl. 264. However, such reports are plainly hearsay. Some courts have admitted an agent's statements in evidence when the time and manner of their utterance bring them within the somewhat loosely defined doctrines of *res gestae*. *Peto* v. *Hague*, 5 Esp. 134; *Keyser* v. *Chicago & G. T. Ry. Co.*, 66 Mich. 390, 33 N. W. 867. Conversely, courts have excluded them when they cannot be brought within those doctrines. *Carroll* v. *East Tennessee, V. & G. Ry. Co.*, 82 Ga. 452, 10 S. E. 163. But, in the principal case, the report was prepared some time after the event and is clearly not part of the *res gestae* within the cases cited. An agent's report is sometimes rejected on the theory that an agent's statements cannot be a principal's admissions. *Atchison, T. & S. F. Ry. Co.* v. *Burks*, 78 Kan. 515, 96 Pac. 950. But the distinct weight of authority is against this view, and makes the criterion, whether the agent has acted within the scope of his authority. *Meyer et al.* v. *Great Western Ins. Co.*, 104 Cal. 381, 38 Pac. 82; *Patterson* v. *United Artisans*, 43 Ore. 333, 72 Pac. 1095; *Hildebrand* v. *United Artisans*, 50 Ore. 159, 91 Pac. 542. See 2 WIGMORE, EVIDENCE, § 1078. Usually conductors are required to report to the company circumstances of accidents. *A fortiori*, they are authorized to do so. And it should have no effect on the admissibility of the report as an admission that the conductor based it, in whole or in part, on what bystanders told him.

FEDERAL COURTS — JURISDICTION BASED ON NATURE OF SUBJECT MATTER — REVIEW OF DECISIONS OF STATE COURTS INVOLVING FEDERAL QUESTIONS, UNDER JUDICIAL CODE, § 237, AMENDED. — The procedure by which state court decisions involving a federal question may be reviewed by the United States Supreme Court, and the jurisdiction of that court to review such decisions, has been changed by amendments to the Judicial Code, § 237, in 1914 and 1916.

That such changes have not yet been appreciated by the profession is evidenced by late decisions of the Supreme Court dismissing writs of error for want of jurisdiction, with the remark that a writ of *certiorari* should have been requested.

For a discussion of these cases, see NOTES, p. 102.

FOREIGN CORPORATIONS — WHAT CONSTITUTES DOING BUSINESS WITHIN A STATE. — The defendant, a foreign railway corporation, had no property in Georgia but maintained a commercial agent there to solicit freight. He had no authority to make contracts. The plaintiff brought suit in Georgia for negligent injury that occurred in another state, and served the agent with process. *Held*, that the service was invalid. *De Bow* v. *Vicksburg S. & P. Ry.*, 98 S. E. 381 (Ga.).

No valid personal judgment can be rendered against a foreign corporation unless it is doing business within the state. *St. Clair* v. *Cox*, 106 U. S. 350; *Goldey* v. *Morning News*, 156 U. S. 518. What acts constitute doing business are matters of fact, and it is difficult to find any helpful general criterion. However, acts done by agents who have authority to bind the corporation are considered to be a transaction of business. *Commercial Mutual Accident Co.* v. *Davis*, 213 U. S. 245. And, conversely, acts done by agents who have no authority to bind the corporation in any way have been held not to constitute doing business. *People's Tobacco Co.* v. *American Tobacco Co.*, 246 U. S. 79. *Cf. International Harvester Co.* v. *Kentucky*, 234 U. S. 579. Thus, it has been frequently decided that a foreign railway, having no lines within the state, is not doing business therein merely by maintaining an agent to solicit shippers. *Abraham Bros.* v. *Southern Ry. Co.*, 149 Ala. 547, 42 South. 837; *Booz* v. *Texas & P. Ry.*, 250 Ill. 376, 95 N. E. 460; *Green* v. *Chicago, B. & Q. Ry.*, 205 U. S. 530. It should be noted, however, that there has been suggested a doctrine that, for acquiring jurisdiction over a foreign corporation that does not expressly consent to the jurisdiction, the cause of action must have arisen within the state and out of the business therein transacted. *Simon* v. *Southern Ry. Co.*, 236 U. S. 115. See *Old Wayne Life Association* v. *McDonough*, 204 U. S. 8, 22. The principal case and most of the cases holding that mere soliciting is not doing business could on their facts have been decided on this ground. There seems to be no good reason why soliciting is insufficient to give the state jurisdiction over causes of action arising within the state and out of the soliciting. Where this question was squarely presented, this view has been taken. *Armstrong Co.* v. *New York Central & H. R. R. Co.*, 129 Minn. 104, 151 N. W. 917.

INJUNCTIONS — ACTS RESTRAINED — SUITS IN FOREIGN JURISDICTION IN EVASION OF THE DOMESTIC LAW. — The defendant, a citizen of Indiana, brought an action of tort against the complainant, a fellow citizen, in Illinois. After the Statute of Limitations had run on the cause of action in Indiana, the complainant filed his bill to enjoin the Illinois suit on the ground that he would be deprived of the defense of the statute in Illinois. *Held*, that the action be enjoined. *Culp* v. *Butler*, 122 N. E. (Ind.) 684.

For a discussion of the principles involved, see NOTES, p. 92.

INSURANCE — RIGHTS OF BENEFICIARY — COMPLIANCE WITH CONDITIONS REGULATING CHANGE OF BENEFICIARY. — The beneficiary of a life certificate in a fraternal benefit association predeceased the insured. The latter took the certificate to the only representative of the association in the state and had him insert the name of a new beneficiary. A by-law of the association provided that a change of beneficiary would not be effective until the old policy had been surrendered and the executive committee had given its approval. Neither the insured nor the agent knew of this by-law. The insured died, and his